

M e m o r a n d u m**335.0047**

To: Oakland - Auditing
Attn: L. H. Woolslayer

Date: September 7, 1986

From: Headquarters – Legal (TLA)

Subject: ---.

I am responding to your memorandum of June 9, 1986. In your memorandum, you requested a legal opinion as to the definition of “component part” of mobile transportation equipment (MTE).

---. manufactures, sells, and leases industrial steam boilers along with mobile boiler rooms and trailer mounted boilers. Your question concerns the trailer mounted boilers which are mounted on a trailer by four bolts. Each boiler unit is capable of being lifted off the trailer at the customer's site by a crane, using the permanently attached lifting hooks located on the boiler unit. The mobile boiler units can be lifted from the trailer and set on the ground or placed inside the customer manufacturing plant. The mobile boiler units can also be operated while still mounted on the trailer unit. You state in your memorandum that the rental fees vary, but it is more costly to rent the boiler unit with the trailer than without. In some instances, the mobile boiler unit may be sold to the customer.

Analysis

Revenue and Taxation Code Section 6006(g)(4) and 6010(e)(4) exclude from the definitions of “sale” and “purchase” the leasing of MTE. Section 6023 of the Revenue and Taxation Code defines MTE as follows:

“Mobile transportation equipment.” ‘Mobile transportation equipment’ includes equipment such as railroad cars and locomotives, buses, trucks (except ‘one-way rental trucks’), truck tractors, truck trailers, dollies, bogies, chassis, reusable cargo shipping containers, aircraft and ships, and tangible personal property which is or becomes a component part of such equipment. ‘Mobile transportation equipment’ does not include passenger

vehicles as defined in Section 465 of the Vehicle Code, trailers and baggage containers designed for hauling by passenger vehicles, or ‘one-way rental trucks’ as defined and identified pursuant to Section 6024.”

The Board’s staff has maintained a longstanding interpretation of the definition of “mobile transportation equipment” to include such items as mobile generators, mobile boilers, mobile air compressors and mobile cranes. Prior to 1971, the rationale for this holding was that the mobile generators and other types of mobile equipment were part of the chassis, which is defined as MTE in section 6023 of the Revenue and Taxation Code. However, in 1971, Regulation 1661 was amended to define the term “chassis” to mean a frame with one or more axles designed to be used in conjunction with and as a temporary support or undercarriage for a container or other van-type box. This definition of chassis clearly excluded mobile generators and other types of equipment from being classified as a chassis, and hence, MTE.

However, in 1971, Section 6023 of the Revenue and Taxation Code was amended to include in the definition of MTE, tangible personal property which is or becomes a component part of such equipment. To preserve the interpretation that mobile generators and other types of equipment are MTE, the rationale was adopted that these pieces of equipment became component parts of the MTE and could therefore be classified as MTE.

The definition of what constitutes a “component part” of mobile transportation equipment must be construed narrowly. We are therefore of the opinion that mobile boilers, which do not become permanently attached or affixed to the underlying chassis are not a “component part” of MTE.

The determination as to whether mobile equipment is permanently affixed to the underlying trailer, and therefore a “component part” of the MTE, depends not so much on the manner of how the equipment is affixed (i.e., bolts versus welding) but rather the nature of how the equipment is used by the lessee. A clear indication that the mobile boiler units in this case are not permanently affixed to the trailer, and therefore not a “component part” of the MTE, is that the lessor leases the mobile boiler units to a lessee without the trailer. The mobile boiler units would only be deemed to constitute a “component part” if the mobile boiler units were never leased without being attached to the underlying trailer chassis.

From the facts that you have provided, the mobile boiler units would not be classified as “component parts” of MTE.

TLA:ba

bc: Mr. Les Sorensen